



# California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

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### TITLE 5. COMMISSION ON TEACHER CREDENTIALING

#### Division VIII of Title 5 of the California Code of Regulations

#### Proposed Amendments to California Code of Regulations §80004 Pertaining to a Foundational–Level General Science Authorization for the Single Subject Teaching Credential

#### Notice of Proposed Rulemaking

The Commission on Teacher Credentialing proposes to amend regulatory action described below after considering all comments, objections and recommendations regarding the proposed action.

#### Public Hearing

A public hearing on the proposed actions will be held:

**October 7, 2008**

**1:30 p.m.**

**California Commission on Teacher**

**Credentialing**

**1900 Capitol Avenue**

**Sacramento, California 95814**

#### Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail on the proposed action. The written comment period closes at 5:00 p.m. on October 6, 2008. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322–0048; write to the California Commission on Teacher Credentialing, attn. Terri H. Feserman, 1900 Capitol Avenue, Sacramento, California 95814–4213; or submit an email at [tfeserman@ctc.ca.gov](mailto:tfeserman@ctc.ca.gov).

Any written comments received 18 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy

to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

#### Authority and Reference

Education Code Section 44225 authorizes the Commission to promulgate rules and regulations which will implement, interpret or make specific sections 44225(e), 44225(q), and 44256 of the Education Code and govern the procedures of the Commission.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### Summary of Existing Laws and Regulations

The proposed regulations will allow for an additional option for employers to assign individuals to teach science. A Foundational–Level General Science credential has the potential to allow additional individuals to earn an authorization to teach general science and reduce the number of individuals on waivers, teaching permits and local teaching assignment options. The proposed regulations add a Foundational–Level General Science authorization as a subject for a single subject credential, however individuals with a single subject teaching credential in a different subject (mathematics, social science, English, art, etc.) would be able to add the authorization to their credential. An individual with a multiple subject credential would be able to earn a single subject credential in Foundational–Level General Science with verification of subject matter and a methodology class. Furthermore, the Foundational–Level General Science credential is a pathway to earn a full science authorization in Science: Biological Science, Chemistry, Geosciences and Physics.

The new authorization would allow for mobility for the self–contained elementary level teacher to serve in a middle or high school departmentalized level assignment as well as the middle and high school departmentalized level teacher in one subject to earn an additional authorization to expand their employability.

The holder of a Foundational–Level General Science credential would be authorized to teach the content area of general or introductory science in grades preschool, K–12 and adults, but not departmentalized Biology, Chemistry, Geosciences or Physics courses. In addition, the holder would be authorized to teach integrated science in grades preschool and K–8. Teachers who are credentialed via this route and who teach courses within this authorization would be considered “Highly Qualified” for the purpose of No Child Left Behind as they would have been required to demonstrate subject matter competence through examination or an approved program.

### **Proposed Changes to Regulation**

**§80004(d)(1)(A), (B) and (C):** The science content areas authorized for service in grades preschool, K–12 and adults are added.

**§80004(d)(2)(A):** The science content areas authorized for service in grades preschool and K–8 are listed.

**Documents Incorporated by Reference:** None

**Documents Relied Upon in Preparing Regulations:** None

### **Disclosures Regarding the Proposed Actions**

The Commission has made the following initial determinations:

*Mandate to local agencies or school districts:* None.

*Other non-discretionary costs or savings imposed upon local agencies:* None.

*Cost or savings to any state agency:* None.

*Cost or savings in federal funding to the state:* None.

*Significant effect on housing costs:* None.

*Significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states:* None.

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with Section 17500) of the Government Code.

*Cost impacts on a representative private person or business:* The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

*Assessment regarding the creation or elimination of jobs in California [Govt. Code §11346.3(b)]:* The Commission has made an assessment that the proposed amendments to the regulation would not (1) create nor eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

*Effect on small businesses:* The Commission has determined that the proposed amendment to the regulations does not affect small businesses. The regulations are not mandatory but an option that affects school districts and county offices of education.

### **Consideration of Alternatives**

The Commission must determine that no alternative considered will be more effective in carrying out the purpose for which the action is proposed or will be as ef-

fective and less burdensome to affected private persons or small businesses than the proposed action. These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with Section 17500) of the Government Code.

### **Contact Person/Further Information**

General or substantive inquiries concerning the proposed action may be directed to Terri H. Fesperman by telephone at (916) 323–5777 or Terri H. Fesperman, California Commission on Teacher Credentialing, 1900 Capitol Ave, Sacramento, CA 95814. General question inquiries may also be directed to Janet Bankovich at (916) 323–7140 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's web site at [www.ctc.ca.gov](http://www.ctc.ca.gov). In addition, all the information on which this proposal is based is available for inspection and copying.

### **Availability of Statement of Reasons and Text of Proposed Regulation**

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of regulations, and the initial statement of reasons.

### **Modification of Proposed Action**

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

### **Availability of Final Statement of Reasons**

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. When it is available, it will be placed on the Commission's web site at [www.ctc.ca.gov](http://www.ctc.ca.gov) or you may obtain a copy by contacting Terri H. Fesperman at (916) 323–5777.

### **Availability of Documents on the Internet**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the Commission's web site at [www.ctc.ca.gov](http://www.ctc.ca.gov).

## **TITLE 14. FISH AND GAME COMMISSION**

### **Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the au-

thority vested by 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861, and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code and to implement, interpret or make specific sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 2861, 5521, 6653, 8420(e), and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code, proposes to amend Section 632, Title 14, California Code of Regulations, relating to Morro Bay State Marine Recreational Management Area, Elkhorn Slough State Marine Reserve and Dana Point State Marine Park.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On April 13, 2007, the California Fish and Game Commission (Commission) adopted regulations to implement marine protected areas (MPAs) within the first study region being considered under the Marine Life Protection Act (MLPA, Stats. 1999, ch. 1015). Upon implementation of these regulations, questions were raised regarding potentially unintended consequences of the new regulations and errors in the consistency of one subsection.

Written testimony to the Commission from the City of Morro Bay raised, among other issues, concerns regarding the regulatory impact on necessary harbor maintenance activities including dredging.

Harbor maintenance is required for the continued viability of the working harbor and is consistent with the intent to avoid negative socio-economic impacts. The

proposed regulation would specifically state that dredging under existing permitting frameworks is allowed; and allow maintenance and cleaning of vessel hulls and man-made structures including the removal of living marine resources from those structures.

Department of Fish and Game enforcement staff noted after implementation of the new MPAs that by rounding the northern boundary coordinate in the Elkhorn Slough State Marine Reserve to the nearest half minute of latitude, an existing shoreline fishing access point at Kirby Park was unintentionally closed. The existing regulation lists the northern boundary as 36 degrees 50.50' North latitude. The proposed change would move this boundary to its originally intended location of 36 degrees 50.40' North latitude, a change of approximately 550 feet, in order to continue to allow fishing at the only public access point in upper Elkhorn Slough at Kirby Park (Figure 1).

Existing regulations in the Dana Point State Marine Conservation Area include restrictions on entry into the area for the purpose of taking marine life, allow for the appointment of a Director of the Dana Point State Marine Conservation Area, and provide authority for the Director to permit certain activities. The existing regulations, however, were not updated to reflect the current designation as a state marine conservation area. This leads to confusing language that refers to a previous "State Marine Park" designation which is no longer appropriate. The proposed changes remove these incorrect references in subsections 632(b)(89)(C) through (G) and replace them with the correct designation of state marine conservation area.



Figure 1. Existing and proposed boundary of the Elkhorn Slough State Marine Reserve in order to allow fishing activities to continue from Kirby Park.



**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, on all options relevant to this action at a hearing to be held at the North Tahoe Conference Center, 8318 North Lake Blvd., Kings Beach, California, on Thursday, September 4, 2008 at 10:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, on all actions relevant to this action at a hearing to be held in the City Council Chambers, 2000 Main Street, Huntington Beach, California, on Friday, November 14, 2008 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 31, 2008, at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on November 10, 2008. All comments must be received no later than November 14, 2008, at the hearing in Hun-

tington Beach, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **Marija Vojkovich, Marine Region, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed

action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

**Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

**Impact of Regulatory Action**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Department does not believe that the proposed action will have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Any additional costs to State agencies for enforcement, monitoring, and management of MPAs are difficult to estimate and depend on not only the impacts of the proposed regulation but also other regulations and processes. Given that the proposed activities were previously occurring in the Morro Bay SMRMA and Elkhorn Slough, it is unlikely that changes to existing enforcement would be required.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None
- (h) Effect on Housing Costs: None

**Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business.

**Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**TITLE 14. BOARD OF FORESTRY  
AND FIRE PROTECTION**

**Title 14 of the California Code of Regulations**

[Notice Published August 22, 2008]

**NOTICE OF PROPOSED RULEMAKING**

**Utility Clearing Exemption Extension, 2008**

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) Division 1.5, Chapter 7 Fire Protection, and Article 4, described below after considering all comments, objections, and recommendations regarding the proposed action.

**Amend:**

**§ 1257(a)(3) Exempt Minimum Clearance Provisions — PRC4293**

**PUBLIC HEARING**

The Board will hold a public hearing on Wednesday, October 8, 2008, starting at 8:00 a.m., at the Resources Building Auditorium, 1<sup>st</sup> Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m., on Monday, October 6, 2008. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Christopher Zimny  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244–2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506–14  
1416 9<sup>th</sup> Street  
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653–0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

**AUTHORITY AND REFERENCE**

Under the authority of PRC 4292 and 4293, CDF is amending Article 4, Chapter 7, to Title 14 California Code of Regulations. References include Sections 4111, 4292–4296 and 4125 to 4128, of the Public Resources Code.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

The proposed regulation extends until December 31, 2009, an existing regulation for fire prevention standards for electrical utilities. The existing regulation includes an exemption to the utility vegetation clearing requirements in § 1257(a)(3). The exemption allows for healthy, mature trees (trunks and limbs), that are sufficiently rigid so they do not present a risk to public safety, to be closer to powerlines than the minimum clearing distance under existing regulations. These trees/limbs are commonly referred to as major woody stems, or MWS.

**SPECIFIC PURPOSE OF THE REGULATION**

Modify the expiration date in subsection (a)(3) to 14 CCR § 1257 to December 31, 2009, to allow for continuation of the existing clearing exemption. The exemption to the utility vegetation clearing requirements allows for mature trees (Major Woody stems, or MWS) to be closer to powerlines than the minimum clearing distance in State regulations.

**DISCLOSURES REGARDING THE  
PROPOSED ACTION**

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None



- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. The amendment extends an exemption to existing clearing standards, reducing the clearing requirement for MWS to a minimum of six inches. This reduction in the clearing requirements is estimated to have a significant positive financial effect for utilities, and potentially utility rate payers, due to the lesser amount of vegetation removal or installation of insulation around lines for compliance with existing rules.
- The proposed rules do not conflict with, or duplicate Federal regulations.

#### BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Christopher Zimny  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the Board web site at:

[http://www.fire.ca.gov/BOF/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## **TITLE 14. DEPARTMENT OF PARKS AND RECREATION**

### **NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** the Department of Parks and Recreation proposes to repeal the regulations described below and to adopt new regulations after considering all comments, objections and recommendations regarding the proposed action.

### **PROPOSED REGULATORY ACTION**

The Department proposes to repeal the regulations contained in the California Code of Regulations (CCR), Title 14, Division 3, Chapter 15.5, Articles 1 through 5, Sections 4970.49 through 4970.72 pertaining to the Off-Highway Motor Vehicle Recreation (OHMVR) Grants and Cooperative Agreements Program and to adopt new permanent regulations, CCR, Title 14, Division 3, Chapter 15, Articles 1 through 4, Sections 4970.00 through 4970.26, that will comply with the Senate Bill 742 amendments to the provisions of Public Resources Code (PRC) § 5090.01 et seq.

### **PUBLIC HEARINGS**

The Department will hold two public hearings on the proposed rulemaking. The hearings will be held:

Date: October 7, 2008  
 Time: 6:00 p.m. till 9:00 p.m.  
 Location: Sacramento  
 OHMVR Headquarters  
 1725 23rd Street, Suite 200  
 Sacramento, CA  
 (916) 324-4442

— and —

Date: October 9, 2008  
 Time: 6:00 p.m. till 9:00 p.m.

Location: San Diego  
 Holiday Inn Express — San Diego Old Town  
 3900 Old Towne Avenue  
 San Diego — Old Town, CA 92110  
 (619) 299-7400

At the hearings, any interested person, or his or her authorized representative, may present oral or written statements, arguments, or contentions relevant to the proposed action described in the Informative Digest. The Department may impose reasonable limits on oral presentations. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the conclusion of their remarks. Additionally, pursuant to Government Code section 11125.1, any information presented to the Department during the open hearings in connection with the matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Department and shall be made available upon request.

Written comments other than those presented at the public hearings may be submitted to the Department as described below.

### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed rulemaking to the Department. The written comment period ends at 5:00 p.m., on October 6, 2008. The Department will consider only written comments received at the Department's office by that time (in addition to those comments received at the public hearing). All written comments shall be submitted to the following address:

Department of Parks and Recreation  
 Off-Highway Motor Vehicle Recreation Division  
 Attn: Allen Chancey, Manager  
 Grants and Cooperative Agreements  
 1725 23rd Street, Suite 200  
 Sacramento, California 95816-7100

Written comments that are not more than 10 pages will be accepted by the Department via facsimile at (916) 324-1610. A fax transmission must be completed by the deadline given above.

Written comments may also be delivered electronically to Allen Chancey at [achancey@parks.ca.gov](mailto:achancey@parks.ca.gov) by the deadline given above.

The back-up contact person regarding the proposed action/text is:

Sixto Fernandez, Grant Administrator, phone number (916) 324-1572 or e-mail address: [sfernandez@parks.ca.gov](mailto:sfernandez@parks.ca.gov).

## AUTHORITY AND REFERENCE

*Authority Citation:* The proposed regulations are authorized by Public Resources Code (PRC) § 5001.5 and 5003.

*Reference Citation:* The particular code sections implemented, interpreted, or made specific by these proposed new regulations are Public Resources Code (PRC) § 5090.02, 5090.24, 5090.32, 5090.35, 5090.50, 5090.53, and 5090.61.

## INFORMATIVE DIGEST

### *Background and History*

Public Resources Code (PRC) § 5090.01 et seq., also known as the Off-Highway Motor Vehicle Recreation Act of 2003 (Act), as amended, governs off-highway motor vehicle grants and cooperative agreements with cities, counties, districts, State agencies, federal agencies, federally recognized Native American tribes, non-profit organizations, and educational institutions. The OHMVR Grants and Cooperative Agreements Program Regulations, CCR, Title 14, Division 3, Chapter 15.5, Articles 1 through 5, § 4970.49 through 4970.72, which were initially adopted as emergency regulations and permanently adopted in May, 2007, provided clarification of some of the amendments to the statute which became effective in 2003 (AB 2274) and in 2005 (AB 2666).

The provisions of the Act were to be repealed on January 1, 2008. Amendments to PRC § 5090.01 et seq., which became effective in 2008 (SB 742) extended the Act to January 1, 2018 and deleted certain obsolete provisions. The language in SB 742 also made significant amendments to the provisions that govern the OHMVR Grants and Cooperative Agreements Program. Some of the SB 742 amendments are as follows:

- Some of the duties and responsibilities of the OHMVR Commission and the OHMVR Division have been revised and recast;
- The eligibility of grant applicants has been expanded to include State agencies;
- Percentages of the total amount appropriated by the Legislature are identified for project categories: fifty percent for operation and maintenance, twenty-five percent for restoration, twenty percent for law enforcement, and five percent for education and safety;

- Law enforcement grants and cooperative agreements will be allocated on a noncompetitive basis to local and federal law enforcement entities based on off-highway motor vehicle enforcement needs under each entity's jurisdiction; The OHMVR Division is required to develop a method to determine the law enforcement needs for each applicant and the eligibility guidelines for law enforcement projects;
- All applicants are required to provide matching funds in an amount not less than twenty-five percent of the total project cost;
- The OHMVR Division is required to establish an administrative appeal process with specific grounds, procedures, and timelines for the awarding of grants and Cooperative agreements;
- All projects involving ground disturbing activity require the grant and cooperative agreement applicant to prepare a Habitat Management Program and to ensure that the soil conservation standards are being met, and
- Clarifies projects eligible for restoration funding.

Since the above-mentioned 2007 permanent regulations are no longer consistent with the current statutes, the Department is proposing to repeal the text of the regulations and the OHMVR Division, Grants and Cooperative Agreements Program, Grants Program Manual (April 2007), which was incorporated by reference. The Department is also proposing to permanently adopt 2008 regulations, which would appear in the CCR as Title 14, Division 3, Chapter 15, Articles 1 through 4, § 4970.00–4970.26 and would apply to grant and cooperative agreement applications received by the Division on or after January 1, 2008.

### *Effect of Proposed Rulemaking*

The Department is proposing to adopt the 2008 OHMVR Grants and Cooperative Agreements Program Regulations, CCR Title 14, Division 3, Chapter 15, Articles 1 through 4, § 4970.00–4970.26 to comply with the amendments to the statute provided in SB 742 and to provide the necessary clarity, procedures, guidelines, and standards for the OHMVR Program as follows:

CCR § 4970.00 provides that CCR Title 14, Division 3, Chapter 15 applies only to grant and cooperative agreement applications received by the OHMVR Division on or after January 1, 2008.

CCR § 4970.01 provides definitions that clarify terms in the statute and/or the proposed regulations.

CCR § 4970.02 sets forth the reason for the OHMVR Grants and Cooperative Agreements Program. It identi-

fies what is to be accomplished with funds received from the program. It further clarifies the legislative intent and purpose of the OHMVR Program as provided in the statute.

CCR § 4970.03 clarifies applicant eligibility for the OHMVR Program and provides a table to illustrate eligible applicants by project types.

CCR § 4970.04 sets forth the grants program cycle, provides the responsibilities of the OHMVR Commission at the beginning of the application cycle, and provides a table that illustrates the activities, dates and/or timelines within the grants program cycle.

CCR § 4970.05 identifies the general application requirements that apply to all grant and cooperative agreement applications; it incorporates by reference the Appendix to these proposed regulations, and provides the required contents of applications including, but not limited to, documentation of a public review and comment period, matching funds, project cost estimates, and equipment inventories.

CCR § 4970.06 identifies the specific environmental requirements which provides the documentation for projects that must include CEQA and/or NEPA compliance; and provides that all applicants for proposed projects that involve ground disturbing activity shall: 1) include a Habitat Management Program in the application, and 2) implement and submit in the application a Soil Conservation Plan that achieves the 2008 Soil Conservation Standard. It also identifies the OHMVR Division's responsibilities in reviewing all environmental documentation;

CCR § 4970.07 identifies the application submission process. It provides that applications shall be submitted via the Internet through the OHMVR Division's Online Grant Application, discusses the required preliminary and final application submission, provides for a question and answer procedure, and discusses the OHMVR Division's responsibilities in addressing final application defects.

CCR § 4970.08 defines and provides examples of eligible project costs.

CCR § 4970.09 defines and provides examples of ineligible project costs.

CCR § 4970.10 identifies the purpose of and the available funding for the operation and maintenance category; clarifies there are four subcategories/project types within the operation and maintenance category; and provides a table that illustrates eligible applicants by project type. It also provides the purpose, available funding, examples of deliverables, project-specific application requirements, and optional project-specific application documents for each project type within the operation and maintenance category. It refers to the Appendix of the regulations for evaluation criteria for each

project type within the operation and maintenance category.

CCR § 4970.11 identifies the purpose of and the available funding for restoration projects. It provides the minimum and maximum amounts allowable for funding requests and refers to the table in § 4970.03 for applicant eligibility. It provides examples of deliverables and project specific application requirements and refers to the Appendix of the regulations for the evaluation criteria for restoration projects.

CCR § 4970.12 identifies the purpose of law enforcement projects and provides the amount of available funding to be allocated by eligible applicant category. It discusses the minimum and maximum amounts allowed for funding requests, and provides some examples of eligible project costs and project-specific application requirements.

CCR § 4970.13 identifies the purpose of and available funding for education and safety projects. It provides the minimum and maximum amounts allowable for funding requests and refers to the table in § 4970.03 for applicant eligibility. It provides examples of deliverables, project-specific requirements, and optional project-specific application documents and refers to the Appendix of the regulations for the evaluation criteria for education and safety projects.

CCR § 4970.14 identifies the evaluation criteria required within grant applications. It requires applications, other than those solely for law enforcement and/or education and safety, to answer general criteria; and applications for all project types other than law enforcement to have project-specific criteria. It identifies the purpose of and provides some examples of general criteria, requires project-specific criteria for all projects except law enforcement, and discusses the requirements for applicants who reference factual documentation. It also provides the responsibilities of the evaluation panel in reviewing referenced documents.

CCR § 4970.15 identifies the percentages of funds appropriated by the Legislature for each project category. It provides the allocation percentages for each subcategory/project type within the operation and maintenance category. It discusses the composition of the evaluation panel and provides the method the panel shall use to evaluate and determine a final score for each project type within the operation and maintenance category, restoration category, and education and safety category. It provides the procedure the OHMVR Division shall follow in awarding funds for these projects. It also provides the allocation percentages for each eligible entity category for law enforcement and discusses the need based method the OHMVR Division shall use to allocate funds.

CCR § 4970.16 identifies the responsibility of the OHMVR Division to post a Notice of Intent to Award



on the Division website upon completion of the evaluation and scoring process.

CCR § 4970.17 identifies the administrative appeal process available to applicants to contest the Intent to Award. It provides a table that illustrates the required actions and timeframes for the appeal process.

CCR § 4970.18 identifies the responsibility of the OHMVR Division to prepare and execute grant and cooperative agreements upon approval of projects by the Director of the Department of Parks and Recreation.

CCR § 4970.19 identifies the responsibility of the OHMVR Division to prepare and execute project agreements which set forth the terms and conditions of the project. It clarifies the meaning of and provides the timeframe for the project performance period by project type. It clarifies when a project amendment is required and discusses the grantees' and the OHMVR Division's responsibilities regarding project amendments. It provides the grantees' requirements for the cancellation or withdrawal of an approved project, discusses the OHMVR Division's and the grantees' responsibilities in the event of a breach of contract, clarifies the procedures that the grantee shall follow if the project has not been completed within the project performance period, and clarifies that the project agreement creates a legal duty on the part of the grantee to comply with the terms and conditions of the grant.

CCR § 4970.20 identifies the requirements that shall apply to all equipment purchased with OHV Trust Funds.

CCR § 4970.21 identifies the required documentation for each development project, provides the OHMVR Division's responsibilities in reviewing the documentation, and requires the grantees to follow all laws that pertain to public works projects including the Americans with Disabilities Act and Title 24 of the California Building Standard Codes regarding disabilities.

CCR § 4970.22 identifies the required accounting practices including record keeping, documentation of labor costs, equipment use, record retention, advances, and matching funds.

CCR § 4970.23 identifies the procedures that grantees shall follow in requesting advance payments or reimbursements, and the OHMVR Division's responsibilities for approving and processing payment requests.

CCR § 4970.24 identifies the procedures and timelines that grantees shall follow after completing a project and describes the responsibilities of the OHMVR Division in reviewing all supporting documentation submitted by grantees and processing final payment requests.

CCR § 4970.25 identifies the types of audits the OHMVR Division or the Department shall conduct. It

provides the types and methods of performance reviews and clarifies the responsibilities of the OHMVR Division and grantees when a performance review is conducted. It provides the requirements and timeframes for financial audits conducted by the Department's Audit Office and also provides the requirements of grantees regarding financial audits including any audit exceptions that may result from a financial audit.

CCR § 4970.26 identifies how to contact the OHMVR Division with inquiries and/or correspondence related to the Grants program or with general inquiries.

## POLICY STATEMENT OVERVIEW

The objective of the proposed regulations is to ensure the OHMVR Grants and Cooperative Agreements Program is administered in an effective, efficient manner, and is consistent with the statute by providing the following:

- Specific regulation language to provide clarity to potential applicants and the public;
- Compliance with the current governing statute, PRC § 5090.01 through 5090.70, as amended by SB 742;
- Elimination of a separate Grants Program Manual and the inclusion in the regulation text of the application instructions, an application evaluation system, and administrative procedures in order to avoid redundancy and to provide more clarity to applicants;
- Submission of grant and cooperative agreement applications exclusively via the Internet through the OHMVR Division's On-line Grant Application;
- Requirement of a two-step application submission will; 1) ensure a smoother public review and comment process, 2) allow a preliminary review by the OHMVR Division, and (3) provide the opportunity for applicants to revise their applications and submit a stronger more competitive and responsive final application; and
- Provision of the 2008 Soil Conservation Standards and the supporting Soil Conservation Guidelines, which are incorporated by reference.

## COMPARABLE FEDERAL REGULATION OR STATUTE

The proposed action does not differ substantially from existing comparable federal regulations or statutes. The proposed regulations do not duplicate or conflict with federal regulations or statutes.

## LOCAL MANDATE DETERMINATION

The Department has determined these proposed regulations do not impose a mandate on local agencies or school districts. Participation in the OHMVR Grants and Cooperative Agreements Program is voluntary.

## DISCLOSURES/ESTIMATE OF ECONOMIC AND FISCAL IMPACT

*Fiscal Impact on Local Agencies or School Districts:* These regulations do not impose any cost on a local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4, Government Code, nor do they impose any non-discretionary cost or saving on local agencies.

*Fiscal Impact on State Government:* These regulations do not impose any cost or savings to the State or any cost or savings in federal funding to the State.

*Economic Impact on Business:* The Department has made an initial determination these regulations do not have a significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

*Cost Impacts on Representative Private Persons or Businesses:* The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

*Assessment of Effect on Jobs and Businesses:* Adoption of these regulations will not: 1) create or eliminate jobs within California, 2) create new businesses or eliminate existing businesses within California, or 3) affect the expansion of businesses currently doing business within California.

*Impact on Housing:* These regulations would not have a significant effect on housing costs.

*Determination Regarding Effect on Small Businesses:* The Department has determined there are no cost impacts on small businesses because this is a grant program for federal agencies, federally recognized Native American tribes, cities, counties, districts, State agencies, nonprofit organizations, and educational institutions.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department has determined no reasonable alternative it considered or has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as ef-

fective and less burdensome to affected private persons than the proposed action.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an Initial Statement of Reasons for the proposed action, has available all the information upon which its proposal is based, and has available the expressed terms of the proposed action. Copies may be obtained by contacting Allen Chancey at the e-mail address listed previously. The rulemaking file, which contains all information on which the proposal is based, is located at the Off-Highway Motor Vehicle Recreation Division, 1725 23<sup>rd</sup> Street, Suite 200, Sacramento, California, 95816-7100, and may be obtained upon request. Additionally, the Initial Statement of Reasons and the text of the proposed regulations may be obtained from the Department's website located at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov) at the Grants link.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding public hearings and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes substantive modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a Final Statement of Reasons may be obtained by contacting Allen Chancey at the aforementioned address and will be made available through the Division website at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov), at the Grants link.

## TITLE 16. BOARD OF PHARMACY

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Pharmacy at its office not later than 5:00 p.m. on October 6, 2008.

The board will hold a public hearing starting at 2:30 p.m. on October 29, 2008 at the Radisson San Francisco

Airport, 5000 Sierra Point Parkway, Brisbane, California, 94005. At the hearing any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The board requests, but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

The Board of Pharmacy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

**Authority and Reference:** Pursuant to the authority vested by sections 4005 and 4127 of the Business and Professions, and to implement, interpret, or make specific sections 4005, 4027, 4033, 4036, 4037, 4050, 4051, 4052, 4059, 4076, 4081, 4127, 4127.7, 4170, 4171, and 4332 of the Business and Professions Code, and section 18944(a) of the Health and Safety Code, the Board of Pharmacy is considering changes to Division 17 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides the authority for a pharmacist to compound drug products as well as compound injectable products.

As required in Business and Professions Code section 4127, the board adopted regulations to implement the provisions for pharmacies that compound sterile injectable products. There are no similar provisions in regulation to detail the requirements for pharmacies that complete general compounding. The proposed changes will provide uniformity in compounding for California consumers.

Below is a summary of each proposed change.

1. Repeal 16 CCR 1716.1. The provisions in 1761.1 are now included within other sections of the regulation proposal.
2. Repeal 16 CCR 1716.2. The provisions in 1761.2 are now included within other sections of the regulation proposal.

3. Adopt 16 CCR 1735. This new section would define the activities that constitute compounding in licensed pharmacies.
4. Adopt 16 CCR 1735.1. This new section would define the following common compounding terms referenced in the regulation proposal: “integrity”, “potency”, “quality”, and “strength”.
5. Adopt 16 CCR 1735.2. This new section would place limitations on the conditions under which compounding can occur as well as allow for anticipatory compounding only under specified conditions. This section contains the provisions previously contained in section 1716.1 and specifies general requirements for compounding, including the requirement to maintain a master formula record, storage requirements, expiration date requirements, and establishes the self-assessment form requirement.
6. Adopt 16 CCR 1735.3. This new section would specify the pharmacy record requirements for each compounded drug, record requirements for the products used in compounding, as well as the duration of time records must be maintained.
7. Adopt 16 CCR 1735.4. This new section would specify the labeling requirements for compounded drugs in addition to the labeling requirements detailed in Business and Professions Code section 4076.
8. Adopt 16 CCR 1735.5. This new section would establish and define the policy and procedure manual that must be maintained by a pharmacy that compounds medications.
9. Adopt 16 CCR 1735.6. This new section would require that the pharmacy maintain written documentation regarding the facilities and equipment used and specify that all equipment used must be done so in accordance with the manufacturer’s specifications. In addition, equipment used must be calibrated.
10. Adopt 16 CCR 1735.7. This new section would require that the pharmacy maintain written documentation to demonstrate relevant pharmacy personnel are trained and possess the necessary skills to perform responsibilities as well as require the pharmacy to develop and maintain an on-going evaluation for relevant personnel.
11. Adopt 16 CCR 1735.8. This new section would require that the pharmacy, as part of its written policies and procedures manual, maintain a quality assurance plan and specify the required elements of the plan.

12. Amend 16 CCR 1751. This section would be amended to require that pharmacies engaged in compounding sterile injectable drug products are required to comply with all requirements specified in sections 1735 through 1735.8, as well as all requirements specified in section 1751 through 1751.8.
13. Amend 16 CCR 1751.1. This section is renumbered from section 1751.3 to 1751.1 to conform with the sequence of Article 4.5 (16 CCR 1735–1735.8). In addition, referenced sections were updated to also conform with the requirements in Article 4.5.
14. Amend 16 CCR 1751.2. This section would be amended to include the specific references to labeling requirements contained in Business and Professions Code section 4076, as well as to conform with the labeling requirements in 16 CCR 1735.4.
15. Amend 16 CCR 1751.3. This section is renumbered from 1751.02 to 1751.3 and consolidated to reduce confusion. In addition, it would be reorganized to conform with the sequence of similar subject areas in Article 4.5. Subsection (c) was moved and slightly modified from former section 16 CCR 1751.1, to consolidate similar provisions.
16. (A) Amend 16 CCR 1751.4. This section is renumbered from 1751.01 to 1751.4 and consolidated with former sections 1751.1 and 1751.3.  
(B) Section 1751.1 is being repealed. This section is consolidated with the new section 1751.4.  
(C) Section 1751.3 is being repealed. This section is consolidated with the new section 1751.4.
17. Amend 16 CCR 1751.5. This section is renumbered from 1751.4 to 1751.5.
18. Amend 16 CCR 1751.6. This section is renumbered from 1751.5 to 1751.6.
19. Amend 16 CCR 1751.7. This section would be amended to include that any pharmacy engaged in sterile injectable compounding must include a written quality assurance plan as part of its written policies and procedures and that batch-produced sterile to sterile transfers are subject to periodic testing through process validation for sterility as determined by the pharmacist-in-charge and described in the written policies and procedures.

20. Amend 16 CCR 1751.8. This section is renumbered from 1751.9 to 1751.8 and slightly modified to use consistent language throughout Article 7.

### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The board determined that the proposed regulatory action would have no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This proposal would apply to all pharmacies. Nonresident pharmacies providing compounded medications to California residents would also need to comply with this regulation, providing parity for business and consumer protection to Californians.

Impact on Jobs/New Businesses: The Board of Pharmacy has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board of Pharmacy is aware that pharmacies that compound medicine will incur the cost of end-product testing. The estimated costs for such testing are about \$100.00 per test. This is a one-time cost as long as the compounding process remains the same.

This board has made an initial determination that the proposed regulatory action would not have a significant adverse economic impact on affected pharmacies.

Effect on Housing Costs: None.

### EFFECT ON SMALL BUSINESS

The Board of Pharmacy estimates that approximately 540 pharmacies impacted by this regulation could be small business. The board anticipates that the changes proposed and associated costs will not be of sufficient magnitude to have the effect of creating or eliminating small business.



## CONSIDERATION OF ALTERNATIVES

The Board of Pharmacy must determine that no reasonable alternative which it considered either would be more effective than or as effective as and less burdensome on affected private persons than the proposal described.

Any interested person may present written statements relevant to the above determinations to the Board of Pharmacy at the above-mentioned address.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Pharmacy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the self-assessment form being incorporated by reference in this proposal and the initial statement of reasons may be obtained upon request from the Board of Pharmacy at 1625 N. Market Blvd. N219, Sacramento, California 95834, or from the Board of Pharmacy Web site ([www.pharmacy.ca.gov](http://www.pharmacy.ca.gov)).

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

## CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Karen Cates  
Address: 1625 N. Market Blvd. N219  
Sacramento, CA 95834  
Telephone No.: (916) 574-7914  
Fax No.: (916) 574-8618  
E-mail Address: [karen\\_cates@dca.ca.gov](mailto:karen_cates@dca.ca.gov)

The backup contact person is:

Name: Anne Sodergren  
Address: 1625 N. Market Blvd. N219  
Sacramento, CA 95834  
Telephone No.: (916) 574-7910  
Fax No.: (916) 574-8618  
E-mail Address: [anne\\_sodergren@dca.ca.gov](mailto:anne_sodergren@dca.ca.gov)

Web site Access: Materials regarding this proposal can be found at [www.pharmacy.ca.gov](http://www.pharmacy.ca.gov).

## TITLE 24. STATE BUILDING STANDARDS COMMISSION

### NOTICE OF PROPOSED ACTION FOR PROPOSED BUILDING STANDARDS OF THE OFFICE OF THE STATE FIRE MARSHAL REGARDING THE 2007 CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS TITLE 24, Part 2

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Office of the State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish building standards contained in the California Code of Regulations (CCR), Title 24, Part 2 and Part 9. The SFM is proposing building standards related to the 2007 California Building Code.

## PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from August 22, 2008 until 5:00 p.m. on October 6, 2008.

Please address your comments to:

California Building Standards Commission (CBSC)  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Attention: Michael L. Nearmen

Written Comments may also be faxed to (916) 263-0959 or E-mailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Pursuant to Government Code Section 11346.5(a)17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

## POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantial-

ly as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

## AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code section 18949.2. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18929.1.

The SFM is proposing this regulatory action pursuant to:

Authority:

- Health and Safety Code Sections 13143, 13211, 18949.2 (b) and (c)

Reference:

- Health and Safety Code Sections 13143, 13210, 13211, 18949.2 (b) and (c)

## INFORMATIVE DIGEST

### Summary of Existing Laws

Health and Safety Code Section 13143 — Existing law requires the State Fire Marshal to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children’s nursery, children’s home or institution, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather.

Health and Safety Code Section 13210 — Existing law defines high-rise structures as: 1) “Existing high-rise structure” as a high-rise structure, of which is construction commenced or completed prior to July 1, 1974, 2) “High-rise structure” means every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals, as defined in Section 1250 and 3) “New high-rise structure” means a high-

rise structure, the construction of which is commenced on or after July 1, 1974.

Health and Safety Code Section 13211 — Existing law requires the State Fire Marshal to prepare and have adopted regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in high-rise structures.

Health and Safety Code Section 18949.2 (b) — This law provides that the State Fire Marshal shall remain the state agency responsible for the developing building standards to implement the state’s fire and life safety policy. (c) This section of Health and Safety Code § 18949.2 provides that the state’s fire and life safety building standards, as developed by the State Fire Marshal and adopted by the Commission, shall be continued to be based on the state’s fire and life safety policy goals and mandates.

### Summary of Existing Regulations

Section 202 Definitions. This existing section and definition defines high-rise buildings in accordance with Health and Safety Code Section 13210.

Section 403 High-rise buildings. This existing section is the section heading for high-rise buildings. This section (403.1 through 403.15) provides detailed special provisions for high-rise buildings.

Section 403.1 Applicability. This existing section scopes the provisions of section 403 in accordance with Health and Safety Code Section 13210, 13212, and 13213 for high-rise buildings exempting hospitals and other specified occupancies.

Sections 403.1.1 and 403.1.2 These existing sections define in accordance with Health and Safety Code Section 13212, and 13213 “new building” and “building access” for the purpose of high-rise structures.

Section 403.13.2 Smokeproof exit enclosures. This existing section requires smokeproof exit enclosures high-rise buildings.

Section 707.14.1 Elevator lobby. This existing section requires and further details enclosed elevator lobbies in high-rise structures as well as other multistory structures.

Table 903.2.13 Additional required suppression systems. This existing table provides reference to other sections of the CBC where the detailed provisions for required suppression systems are found.

Section 903.3.5.2 Secondary water supply. This existing section requires a secondary water supply of high-rise buildings located in certain seismic design categories.

Section 903.4.3 Floor control valves. This existing section provides the requirements for approved supervised indicating control valves at risers in high-rise buildings.

Section 907.2.12 High-rise buildings. This existing section provides the requirements for automatic fire alarm systems and emergency voice/alarm communication systems in high-rise buildings.

Section 907.8.3 High-rise buildings. This existing section provides detail requirements for separate zones for certain alarm-initiating devices in high-rise buildings.

Section 911.1 Features. This existing section provides detailed requirements for fire command center in high-rise buildings and other occupancies where required for fire department operations.

Section 2702.2.15 High-rise buildings. This existing section provides the requirement for emergency power and standby power for high-rise buildings and provides reference to other sections of the CBC where the detailed provisions are located.

#### Summary of Effect

These proposed amendments reinstate the base model code provisions of the 2006 IBC/IFC without creating new requirements for Group I-2 and I-3 occupancies. Additionally these amendments will maintain that Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department vehicle access are not classified as "high-rise" buildings and that existing hospitals are not subject to these provisions in accordance with Health and Safety Code Section 13210.

#### Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

#### Policy Statement Overview

The broad objectives of these proposed regulations is to specifically address missing provisions of the 2006 IBC/IFC base model code provisions that have been excluded by amendment from the 2007 California Building and Fire Code in accordance with Health and Safety Code section 13143, 13210 and 18949.2.

The intent of this proposed action is to reinstate specific provisions for the adoption by reference of the 2006 IBC/IFC and the amendments thereof for the 2007 California Building and Fire Code. OSFM further proposes to offer amendments where necessary to clarify and ensure that the regulations of the CBC/CFC, establish and or maintain minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

#### OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

The SFM has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulation.

#### MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or public school districts.

#### ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

#### INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The SFM has made an initial determination that this proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with business in other states.

#### DECLARATION OF EVIDENCE

The SFM affirms that this rulemaking action complies specifically with the mandates of Health and Safety Code Sections 13143, 13210, 13211, 18949.2(b) and (c) and the mandates of the statutory authority of the SFM as shown in the Informative Digest.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

**FINDING OF NECESSITY FOR THE PUBLIC'S  
HEALTH, SAFETY, OR WELFARE**

The SFM has made an assessment of the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

**COST IMPACT ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**

The SFM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION**

The SFM has assessed that adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new businesses or eliminate existing businesses within California; or
- Affect the expansion of businesses currently doing business within California.

**INITIAL DETERMINATION OF SIGNIFICANT  
EFFECT ON HOUSING COSTS**

The SFM has made an initial determination that this proposal would not have a significant effect on housing costs.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code §11346.5 subdivision (a)(13), the SFM has determined that no reasonable alternative considered by it or that has been otherwise identified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as ef-

fective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF RULEMAKING  
DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

**<http://www.bsc.ca.gov/>**

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL  
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

**Michael L. Nearman**  
**California Building Standards Commission**  
**2525 Natomas Park Drive, Suite 130**  
**Sacramento, CA 95833**

**Telephone No.: (916) 263-0916**  
**Facsimile No.: (916) 263-0959**

**PROPOSING STATE AGENCY CONTACT  
PERSON FOR SUBSTANTIVE AND/OR  
TECHNICAL QUESTIONS ON THE PROPOSED  
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

**Kevin Reinertson**  
**Supervising Deputy State Fire Marshal**  
**Office of the State Fire Marshal,**  
**Code Development and Analysis Division**  
**(916) 327-4998**  
**[kevin.reinertson@fire.ca.gov](mailto:kevin.reinertson@fire.ca.gov)**  
**FAX: (916) 445-8459**



## TITLE 24. STATE BUILDING STANDARDS COMMISSION

### NOTICE OF PROPOSED ACTION FOR PROPOSED BUILDING STANDARDS OF THE OFFICE OF THE STATE FIRE MARSHAL REGARDING THE 2007 CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS TITLE 24, Part 9

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Office of the State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish building standards contained in the California Code of Regulations (CCR), Title 24, Part 2 and Part 9. The SFM is proposing building standards related to the 2007 California Building Code.

#### PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from August 22, 2008 until 5:00 p.m. on October 6, 2008.

Please address your comments to:

California Building Standards Commission (CBSC)  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Attention: Michael L. Nearmen

Written Comments may also be faxed to (916) 263-0959 or E-mailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Pursuant to Government Code Section 11346.5(a)17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

#### POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept

written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

#### AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code section 18949.2. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18929.1.

The SFM is proposing this regulatory action pursuant to:

Authority:

- Health and Safety Code Sections 13143, 13211, 18949.2 (b) and (c)

Reference:

- Health and Safety Code Sections 13143, 13210, 13211, 18949.2 (b) and (c)

#### INFORMATIVE DIGEST

##### Summary of Existing Laws

Health and Safety Code Section 13143 — Existing law requires the State Fire Marshal to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather.

Health and Safety Code Section 13210 — Existing law defines high-rise structures as: 1) "Existing high-rise structure" as a high-rise structure, of which is construction commenced or completed prior to July 1, 1974, 2) "High-rise structure" means every building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals, as defined in Section 1250 and 3) "New high-rise structure" means a high-rise structure, the construction of which is commenced on or after July 1, 1974.

Health and Safety Code Section 13211 — Existing law requires the State Fire Marshal to prepare and have adopted regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in high-rise structures.

Health and Safety Code Section 18949.2 (b) — This law provides that the State Fire Marshal shall remain the state agency responsible for the developing building standards to implement the state’s fire and life safety policy. (c) This section of Health and Safety Code § 18949.2 provides that the state’s fire and life safety building standards, as developed by the State Fire Marshal and adopted by the Commission, shall be continued to be based on the state’s fire and life safety policy goals and mandates.

#### Summary of Existing Regulations

Section 202 Definitions. This existing section and definition defines high-rise buildings in accordance with Health and Safety Code Section 13210.

Section 403 High-rise buildings. This existing section is the section heading for high-rise buildings. This section (403.1 through 403.15) provides detailed special provisions for high-rise buildings.

Section 403.1 Applicability. This existing section scopes the provisions of section 403 in accordance with Health and Safety Code Section 13210, 13212, and 13213 for high-rise buildings exempting hospitals and other specified occupancies.

Sections 403.1.1 and 403.1.2 These existing sections define in accordance with Health and Safety Code Section 13212, and 13213 “new building” and “building access” for the purpose of high-rise structures.

Section 403.13.2 Smokeproof exit enclosures. This existing section requires smokeproof exit enclosures high-rise buildings.

Section 707.14.1 Elevator lobby. This existing section requires and further details enclosed elevator lobbies in high-rise structures as well as other multistory structures.

Table 903.2.13 Additional required suppression systems. This existing table provides reference to other sections of the CBC where the detailed provisions for required suppression systems are found.

Section 903.3.5.2 Secondary water supply. This existing section requires a secondary water supply of high-rise buildings located in certain seismic design categories.

Section 903.4.3 Floor control valves. This existing section provides the requirements for approved supervised indicating control valves at risers in high-rise buildings.

Section 907.2.12 High-rise buildings. This existing section provides the requirements for automatic fire

alarm systems and emergency voice/alarm communication systems in high-rise buildings.

Section 907.8.3 High-rise buildings. This existing section provides detail requirements, for separate zones for certain alarm-initiating devices in high-rise buildings.

Section 911.1 Features. This existing section provides detailed requirements for fire command center in high-rise buildings and other occupancies where required for fire department operations.

Section 2702.2.15 High-rise buildings. This existing section provides the requirement for emergency power and standby power for high-rise buildings and provides reference to other sections of the CBC where the detailed provisions are located.

#### Summary of Effect

These proposed amendments reinstate the base model code provisions of the 2006 IBC/IFC without creating new requirements for Group I-2 and I-3 occupancies. Additionally these amendments will maintain that Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department vehicle access are not classified as “high-rise” buildings and that existing hospitals are not subject to these provisions in accordance with Health and Safety Code Section 13210.

#### Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

#### Policy Statement Overview

The broad objectives of these proposed regulations is to specifically address missing provisions of the 2006 IBC/IFC base model code provisions that have been excluded by amendment from the 2007 California Building and Fire Code in accordance with Health and Safety Code section 13143, 13210 and 18949.2.

The intent of this proposed action is to reinstate specific provisions for the adoption by reference of the 2006 IBC/IFC and the amendments thereof for the 2007 California Building and Fire Code. OSFM further proposes to offer amendments where necessary to clarify and ensure that the regulations of the CBC/CFC, establish and or maintain minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

OTHER MATTERS PRESCRIBED BY STATUTE  
APPLICABLE TO THE AGENCY OR TO ANY  
SPECIFIC REGULATION OR CLASS OF  
REGULATIONS

The SFM has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulation.

MANDATE ON LOCAL AGENCIES  
OR SCHOOL DISTRICTS

The SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or public school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES

The SFM has made an initial determination that this proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The SFM affirms that this rulemaking action complies specifically with the mandates of Health and Safety Code Sections 13143, 13210, 13211, 18949.2(b) and (c) and the mandates of the statutory authority of the SFM as shown in the Informative Digest.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

FINDING OF NECESSITY FOR THE PUBLIC'S  
HEALTH, SAFETY, OR WELFARE

The SFM has made an assessment of the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

COST IMPACT ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS

The SFM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION

The SFM has assessed that adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new businesses or eliminate existing businesses within California; or
- Affect the expansion of businesses currently doing business within California.

INITIAL DETERMINATION OF SIGNIFICANT  
EFFECT ON HOUSING COSTS

The SFM has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code §11346.5 subdivision (a)(13), the SFM has determined that no reasonable alternative considered by it or that has been otherwise identified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING  
DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the

person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

**<http://www.bsc.ca.gov/>**

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL  
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

**Michael L. Nearman**  
**California Building Standards Commission**  
**2525 Natomas Park Drive, Suite 130**  
**Sacramento, CA 95833**

**Telephone No.: (916) 263-0916**  
**Facsimile No.: (916) 263-0959**

**PROPOSING STATE AGENCY CONTACT  
PERSON FOR SUBSTANTIVE AND/OR  
TECHNICAL QUESTIONS ON THE PROPOSED  
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

**Kevin Reinertson**  
**Supervising Deputy State Fire Marshal**  
**Office of the State Fire Marshal**  
**Code Development and Analysis Division**  
**(916) 327-4998**  
**[kevin.reinertson@fire.ca.gov](mailto:kevin.reinertson@fire.ca.gov)**  
**FAX: (916) 445-8459**

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF SOCIAL SERVICES**

**NOTICE TO INTERESTED PARTIES**

The California Department of Social Services (CDSS) is required by federal law to submit an updated State Plan for the Temporary Assistance to Needy Families program. Notice is hereby given that a copy of

California's proposed updated plan is available upon request for public review and comment.

Copies of the proposed State Plan are available from the office listed below. Comments relating to the proposed plan may be submitted in writing or by telefax to the address/number listed below. All comments must be received no later than October 7, 2008.

**CONTACT**

Mr. Owen Stewart  
CalWORKs Eligibility Bureau  
TANF State Plan Recertification  
744 "P" Street, MS 16-31  
Sacramento, CA 95814  
(916)654-1068

**PETITION DECISION**

**AIR RESOURCES BOARD**

July 23, 2008

Ms. Penny Newman  
Executive Director  
Center for Community Action and Environmental  
Justice  
P.O. Box 33124  
Riverside, California 92519

Dear Ms. Newman:

On April 24, 2008, the Center of Community Action and Environmental Justice (CCA EJ), joined by four other community organizations,<sup>1</sup> submitted to the Air Resources Board (ARB or the Board) a petition entitled "Petition for Rulemaking (Cal. Gov. Code Section 11340.6)." <sup>2</sup> The California Administrative Procedure Act provides that any interested person may petition a State agency requesting the adoption, amendment, or repeal of a regulation as provided in Government Code section 11340.6. The petition must clearly and concisely state the substance or nature of the regulation, the requested amendment or repeal, the reason for the request, and the reference to the authority of the State agency to take the action requested. <sup>3</sup>

The California Administrative Procedure Act further provides that a State agency shall notify the petitioner in writing of their receipt of the petition and shall within 30 days either deny the petition indicating why the

<sup>1</sup> East Yard Communities for Environmental Justice, Coalition for a Safe Environment, Westside Residents for Clean Air Now, and Communities for a Better Environment.

<sup>2</sup> Copies of the petition are available from ARB upon request.

<sup>3</sup> Government Code section 11340.6(a)-(c).



agency has reached its decision on the merits of the petition in writing or schedule the matter for public hearing in accordance with the notice and hearing requirements of the California Administrative Procedure Act.<sup>4</sup> On May 22, 2008, CCAEJ, and the other community associations, granted ARB an extension until June 23, 2008, to respond. On June 20, 2008, CCAEJ, and the other community organizations, granted ARB a second extension until July 23, 2008, to respond. ARB staff appreciates the petitioners' cooperation in granting the two extensions.

#### Background:

Over the last year, ARB has completed 16 health risk assessments for the major rail yards in California. These assessments clearly demonstrated that activities within and around these rail yards are responsible for an unacceptably high risk of exposure to diesel particulate matter (diesel PM) in nearby communities. Therefore, we agree with your position that substantial additional emission reductions are necessary to expeditiously reduce this risk. As identified in Attachment 1, many measures have already been instituted to reduce emissions from locomotives and other sources that operate in and around rail yards. While these measures have and will continue to achieve significant reductions in the exposure to diesel PM, we agree that additional action to further reduce the emissions and public health risks associated with locomotives and rail yards is needed.

Consequently, at the direction of Chairman Mary Nichols, ARB staff is developing a comprehensive plan to reduce emissions and public health risks from locomotives and rail yards. We will develop this plan in a public process that will provide opportunities for public input. As a starting point, ARB staff has developed a list of potential measures that will be considered in this process. As we proceed, we will examine the most effective mechanism for implementation (e.g. regulations, incentives, voluntary action, or enforceable agreements), the emissions and risk reduction potential, the cost and cost-effectiveness, and the timeliness of each measure (see Attachment 2). This list includes the measures that you have recommended in the petition, as well as several additional measures ARB staff have identified. In addition, we welcome any comments that you have on other proposed measures that could be added to the list. We expect to present our draft plan to the public in September.

This plan will complement the specific rail yard mitigation plans that are being considered pursuant to the 2005 Agreement.<sup>5</sup> Public meetings will be held later

this summer to discuss the rail yard mitigation options and receive stakeholder comments from your organization and others. Following the public process, the plans will be finalized.

#### Response to the Petition:

In the petition, petitioners requested that the Board adopt ten specific regulatory control measures pursuant to Health and Safety Code sections 43000, 43000.5, 43013(b), and 43018. These measures are listed in Attachment 3. For the reasons set forth below, the petition to initiate specific rulemakings is being denied.<sup>6</sup> Although we are denying your petition, I want to reiterate ARB's commitment that we will fully evaluate all of the measures that can be taken to reduce the emissions and public health risk around rail yards, including the measures you identified in your petition.

ARB staff has determined that the ten suggested regulatory measures fall basically into two groups: those that directly affect locomotives and those that affect other rail yard sources. Several of the suggested locomotive regulatory measures arguably fall within the scope of federal Clean Air Act (CAA) preemption of section 209(e)(1) as interpreted by the U.S. Environmental Protection Agency (U.S. EPA). Section 209(e)(1) prohibits states from adopting emission standards or other requirements related to the control of emissions of locomotives and locomotive engines. U.S. EPA has interpreted the preemption as including, but not limited to, requirements that affect the design and production of locomotives such as emission standards, mandatory fleet average standards, certification requirements, aftermarket equipment requirements, and nonfederal in-use testing requirements. For example, under federal regulations the proposed measures to require retrofitting of locomotives with diesel particulate filters or installing automatic shutoff devices might be preempted as aftermarket equipment requirements that affect the design and production of locomotives.<sup>7</sup>

Moreover, for other proposed measures, it is not clear on their face that they would escape preemption under section 10501 of the Interstate Commerce Commission Termination Act (ICCTA), even after harmonization with the CAA. ARB must conduct further review and study to determine whether the proposed measures for electric standby for transport refrigerated units, remote

<sup>4</sup> Government Code section 11340.7.

<sup>5</sup> 2005 Memorandum of Understanding (MOU) "ARB/Railroad Stateside Agreement Particulate Emission Reduction Program at California Rail Yards," June 2005.

<sup>6</sup> The Board may delegate any duty it deems appropriate to its Executive Officer (Health and Safety Code section 39515(a)). Moreover, the Board is conclusively presumed to have delegated any of its powers to the Executive Officer, unless it has expressly reserved that power to itself (Health and Safety Code section 39516). The Board has not reserved the power to act on rulemaking petitions and it is, therefore, appropriate for me to act on the petition pursuant to my delegated authority.

<sup>7</sup> See *Emission Standards for Locomotives and Locomotive Engines; Final Rule*, 63 Federal Register 18978, 18974 (April 16, 1998).

sensing, hood technology, and electric rail-mounted container gantry cranes are technological feasible and cost-effective and whether such measures might unduly impair or burden railroad operations.<sup>8</sup> However, ARB is continuing to evaluate the scope of the CAA and ICCTA preemptions with regard to adopting regulations for these measures even as it evaluates other potential strategies, such as monetary incentives and enforceable agreements with the railroads. These alternative strategies would potentially achieve comparable emission reductions and risk exposure from these sources, while avoiding litigation that could delay anticipated regulatory benefits.

Still other requested regulations are likely to achieve little, if any, emission reductions. These measures include the proposed 30-minute idling requirements of South Coast Air Quality Management District's (SCAQMD) Rule 3502, retrofitting of older switchers and in-use testing for compliance with federal standards. These measures are not likely to achieve significant reductions because of actions that have already been taken by the railroads under the 1998 and 2005 memoranda of understanding,<sup>9</sup> or, as in the case of in-use emissions testing, because of the comprehensiveness of the federal testing program.

#### Conclusion:

In conclusion, I find that the petition must be denied at this time. As stated, given the broad scope of preemption as interpreted by U.S. EPA, ARB's authority to adopt certain of the proposed measures under the CAA is problematic. Similarly, given the difficulty in determining, from the face of the proposed measures, whether other measures are feasible and cost-effective and would not unduly interfere with or burden railroad operations, ARB's authority to adopt regulations is also questionable. Finally, adopting regulations for other proposed measures, which will not achieve appreciable new emission reductions and will not result in any real benefit to the affected communities, must be weighed against better uses of the agency's limited resources.

However, ARB staff is committed to evaluating the measures you identified as part of our comprehensive effort to address and reduce the health risk exposures experienced by communities neighboring California rail yards. We believe that the most effective way to implement this commitment and to develop specific rail

yard mitigation plans is a collaborative effort that involves ARB, the air pollution control and air quality management districts, the local community, and the railroads. ARB staff is acting aggressively, and we would like to work with your organizations to increase the number and types of emission reduction strategies.

If you have any questions, please call Mr. Robert D. Fletcher, Chief, Stationary Source Division at (916) 324-8167.

Sincerely,

/s/

James N. Goldstene  
Executive Officer

#### Attachments

cc: Ms. Mary N. Nichols  
Chairman

Ms. Ellen M. Peter  
Chief Counsel

Mr. Robert D. Fletcher, Chief  
Stationary Source Division

### Attachment 1

#### Existing Measures to Reduce Emissions

The following measures have already been taken and will reduce the emissions at rail yards and from locomotives. These measures include adopted regulations, voluntary agreements, voluntary actions, and incentives.

- ✓ United States Environment Protection Agency (U.S. EPA) — 1998 Locomotive Rulemaking.
- ✓ U.S. EPA — 2008 Locomotive Rulemaking.
- ✓ ARB — 1998 Agreement with the Railroads.
- ✓ ARB — 2004 Regulation for in-use Transport Refrigeration Units.
- ✓ ARB — 2004 Regulation for Diesel Fuel used for Intrastate Locomotives.
- ✓ ARB — 2005 Statewide Agreement with the Railroads.
- ✓ ARB — 2007 Regulation for Drayage Trucks Serving Ports and Intermodal Rail Yards.
- ✓ ARB — 2005 Regulation for Cargo Handling Equipment Used at Ports and Intermodal Rail Yards.
- ✓ Accelerated Fleet Turnover of Cargo Handling Equipment at Intermodal Rail Yards.
- ✓ Carl Moyer or Proposition 1B Incentive Funds to Replace Locomotives or Other Equipment Used at Rail Yards.

<sup>8</sup> See also, for example, Health and Safety Code section 43013(a), which requires that emission standards and requirements for off-road regulations be technologically feasible and cost effective.

<sup>9</sup> 1998 MOU between ARB and Union Pacific (UP) and Burlington Northern Santa Fe (BNSF) railroads on "South Coast Locomotive Fleet Average Emissions Program," July 2, 1998, and 2005 MOU "ARB/Railroad Statewide Agreement Particulate Emission Reduction Program at California Rail Yards," June 2005.

- ✓ Miscellaneous voluntary actions taken by the railroads on a rail yard specific basis (e.g., movement of emission sources greater distances from receptors, use of trees and walls to filter and reduce emissions, operational time changes, etc.).
- ✓ To be considered at the October 2008 Air Resources Board meeting, a new regulation to reduce emissions from in-use heavy-duty trucks.

## Attachment 2

### Possible Measures for Reducing the Emissions and Public Health Risk From Locomotive and Rail Yards

The following measures reduce the emissions and public health risks at rail yards from locomotives and non-locomotive sources and could be taken after a technical evaluation and cost-effectiveness analysis. This analysis has started for some of these measures, and they could include adopted regulations, voluntary agreements, voluntary actions, and incentives.

- ✓ Switch locomotives: Replace with ultra low emitting (ULEL) switch locomotives by 2015. ULEL switch locomotives can provide up to a 90 percent reduction in nitrogen oxides (NOx) and particulate matter (PM) emissions from uncontrolled levels. Beginning as early as 2011, replace ULEL Tier 3 non-road with Tier 4 non-road engines upon remanufacture—about every four to eight years—which could provide up to an additional 90 percent reduction in NOx and PM emissions.
- ✓ Interstate Line Haul Locomotives: Develop new agreement with Union Pacific (UP) and Burlington Northern Santa Fe (BNSF) railways to accelerate the introduction of Tier 4 interstate line haul locomotives to achieve a Tier 4 fleet average in California.
- ✓ Accelerated remanufacture of UP and BNSF interstate line haul locomotives to 2008 U.S. EPA PM plus emission standards.
- ✓ Accelerate replacement of Tier 0/Tier 1 line haul locomotives with Tier 2.
- ✓ Reduce idling from locomotives; installation of idle reduction devices on interstate line haul locomotives.
- ✓ Reduce idling from cargo handling equipment.
- ✓ Transport Refrigeration Unit (TRU) standby electrification.
- ✓ Implement rail yard specific operational changes, that include:

- Moving emissions sources greater distances from receptors to reduce risks.
- Planting trees and build high retaining walls.
- Filtering emissions, reducing noise, and improving area aesthetics.
- ✓ Implement ARB and local community truck and locomotive task force enforcement program, including the use of remote sensing if feasible, and more frequent testing of locomotives pursuant to federal testing requirements.
- ✓ Use Proposition 1B funds (\$100 million allotted and \$100 million matching funds totaling \$200 million), potential container fee funds (SB 974 legislation pending), Carl Moyer funds, or AB 118 funds to replace switch locomotives or other equipment.
- ✓ “Hood Technology” stationary system: Reduce locomotive service and maintenance emissions.
- ✓ Medium horsepower locomotives: Repower with Tier 2 plus engines and retrofit Tier 4 after treatment (DPF and Selective Catalytic Reduction (SCR) by 2015.
- ✓ Yard Trucks: Liquified Natural Gas (LNG), U.S. EPA hydraulic hybrid technology, fuel cells, and electric yard hostlers.
- ✓ Rubber-tired gantry (RTG) and rail-mounted gantry (RMG) cranes: All electric and hybrid-electric RTG and electric RMG cranes.
- ✓ Remote sensing and in-use testing for locomotives.
- ✓ Diesel particulate filters on intrastate and interstate locomotives.
- ✓ Regulatory measure that requires the development and implementation of emissions reduction plan for each rail yard with components that address proximity to sensitive receptors.
- ✓ Electrify all freight lines in South Coast Air Basin to Barstow and Niland.

## Attachment 3

### Regulatory Measures Listed in the Petition

In the petition, petitioners requested that the Air Resources Board should adopt the following regulatory control measures pursuant to Health and Safety Code sections 43000, 43000.5, 43013(b), and 43018:

1. SCAQMD Rules 3501–3503 for idling limits, recordkeeping, and risk assessment modeling.
2. Retrofitting of switcher locomotives.
3. Idling and plug-in rule for transport refrigerated units while not in transit.
4. In-use testing for compliance with federal standards.

5. Remote sensing for compliance with federal standards.
6. Installation of diesel particulate filters on all interstate and intrastate locomotives.
7. Idling regulations for locomotive maintenance facilities and/or stationary emission control device regulations (such as hood technology).
8. Stepped up enforcement with more rigorous standards than the 2005 MOU
9. Regulatory measure that requires the development and implementation of emissions reduction plan for each rail yard with components that address proximity to sensitive receptors.
10. Electric rail-mounted container gantry cranes.

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2008-0624-01

#### AIR RESOURCES BOARD

##### Vapor Recovery Equipment Defects List

This action updates the list of defects in gasoline filling station vapor recovery equipment that are significant, removing listings that pertain to old equipment no longer approved for use, adding newly approved equipment and specifically identifying defects that pertain to stations using above ground storage tanks.

Title 17

California Code of Regulations

AMEND: 94006

Filed 08/06/2008

Effective 09/05/2008

Agency Contact: Alexa Malik (916) 322-4011

File# 2008-0627-03

#### BOARD OF EQUALIZATION

Petitions for Reallocation of Local Tax & Petitions for Distribution

This action makes revisions to regulations governing appeals by local agencies of suspected misallocations

of taxes imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law and the Transactions and Use Tax Law.

Title 18

California Code of Regulations

AMEND: 1807, 1828

Filed 08/11/2008

Effective 09/10/2008

Agency Contact: Rick Bennion (916) 445-2130

File# 2008-0708-02

#### BOARD OF OCCUPATIONAL THERAPY

##### Continuing Competency Requirements

This regulatory action establishes continuing competency requirements for occupational therapy practitioner license applicants who have not been actively engaged in the practice of occupational therapy within the past five years. Applicants who have not been actively engaged in practice within the past five years must complete 40 units of professional development as follows: 37 units related to the delivery of occupational therapy services, one unit related to occupational therapy scope of practice, one unit related to occupational therapy framework, and one unit related to ethical standards for occupational therapists.

Title 16

California Code of Regulations

AMEND: 4161

Filed 08/07/2008

Effective 09/06/2008

Agency Contact: Heather Martin (916) 263-2294

File# 2008-0710-02

#### BUREAU OF AUTOMOTIVE REPAIR

##### CAP Vehicle Retirement Option Eligibility Revisions

This rulemaking extends the time, from 120 days to 180 days after a vehicle's most recent renewal of registration date, during which persons may apply for financial benefits under the Vehicle Retirement option of the Consumer Assistance Program. This rulemaking change sunsets on June 30, 2009.

Title 16

California Code of Regulations

AMEND: 3394.4

Filed 08/12/2008

Effective 08/12/2008

Agency Contact: Virginia Vu (916) 255-2135

File# 2008-0710-03

#### BUREAU OF AUTOMOTIVE REPAIR

Consumer Assistance Program Application Revisions (CAP/APP (02/08))

This change without regulatory effect modifies the Department of Consumer Affairs Bureau of Automot-



tive Repair Consumer Assistance Program Application form to conform to changes made to title 16 California Code of Regulations Section 3394.4 regarding the extension of time for consumers to apply for vehicle retirement financial assistance and to conform to California Health and Safety Code provisions regarding the Gold Shield program for vehicle inspection and repair and to reference current federal poverty level guidelines.

Title 16  
California Code of Regulations  
AMEND: 3394.6  
Filed 08/13/2008  
Agency Contact: Virginia Vu (916) 255-2135

File# 2008-0626-03  
**CALIFORNIA GAMBLING CONTROL COMMISSION**  
Replace Division of Gambling Control with Bureau of Gambling Control

California Gambling Control Commission (CGCC) submitted this Section 100 action to make its Title 4 regulations, including 15 CGCC forms and 22 related Department of Justice (DOJ) forms that are incorporated by reference, consistent with 2007 amendments to the Gambling Control Act in SB 82. These revisions change the name of the DOJ division that coordinates with CGCC in licensing, investigations, and enforcement of gambling activity under the Gambling Control Act and CGCC's regs. DOJ's Division of Gambling Control is renamed the Bureau of Gambling Control. Other nonsubstantive amendments include revisions to structure, syntax, grammar, and cross-references, including updated incorporated form references.

Title 4  
California Code of Regulations  
AMEND: 12002, 12100, 12101, 12120, 12122, 12128, 12130, 12140, 12200, 12200.3, 12200.7, 12200.9, 12200.10A, 12200.10B, 12200.10C, 12200.11, 12200.13, 12200.14, 12200.16, 12200.17, 12200.18, 12200.20, 12200.21, 12201, 12202, 12203, 12203A, 12203.1, 12203.2, 12203.3, 12203.5, 12204, 12205, 12205.1, 12218, 12218.1, 12218.5, 12218.7, 12218.11, 12220, 12220.3, 12220.13, 12220.14, 12220.16, 12220.18, 12220.20, 12220.20A, 12220.21, 12220.23, 12221, 12222, 12223, 12224, 12225, 12225.1, 12233, 12234, 12235, 12236, 12300, 12301, 12301.1, 12302, 12303, 12304, 12305, 12306, 12308, 12309, 12310, 12335, 12341, 12342, 12343, 12344, 12345, 12347, 12358, 12359, 12360, 12370, 12400, 12401, 12402, 12403, 12404, 12405, 12460, 12463, 12464, 12466, 12550, 12552, 12554, 12556, 12558, 12560,

12562, 12564, 12566, 12568, 12590  
Filed 08/08/2008  
Effective 08/08/2008  
Agency Contact: James Allen (916) 255-4300

File# 2008-0718-01  
**CALIFORNIA HIGHWAY PATROL**  
Fleet Owner Inspection and Maintenance Stations

This regulatory action amends regulations governing the issuance and use of Fleet Owner Inspection and Maintenance Station (IMS) licenses and provides a process for requesting exemption from the regulations.

Title 13  
California Code of Regulations  
ADOPT: 619.2 AMEND: 615, 615.1, 616, 617, 618, 619, 619.1  
Filed 08/13/2008  
Effective 09/12/2008  
Agency Contact: Don Callaway (916) 445-1865

File# 2008-0804-01  
**CALIFORNIA STATE UNIVERSITY**  
Admission to Post-Baccalaureate Standing: Unclassified

This submission by the California State University changes "each" to "all" in section 41000 regarding admission requirements for post-baccalaureate students.

Title 5  
California Code of Regulations  
AMEND: 41000  
Filed 08/11/2008  
Effective 08/11/2008  
Agency Contact:  
Cassandra M. Andrews (562) 951-4500

File# 2008-0807-01  
**DEPARTMENT OF FOOD AND AGRICULTURE**  
Mediterranean Fruit Fly Interior Quarantine

This emergency regulatory action removes approximately 114 square miles surrounding the Mediterranean fruit fly infestation in the Dixon area of Solano County from the area under quarantine.

Title 3  
California Code of Regulations  
AMEND: 3406(b)  
Filed 08/12/2008  
Effective 08/12/2008  
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0804-02  
**DEPARTMENT OF FOOD AND AGRICULTURE**  
Mediterranean Fruit Fly Interior Quarantine

This emergency regulatory action removes approximately 75 square miles surrounding the Mediterranean

fruit fly infestation in the San Jose area of Santa Clara County from the area under quarantine.

Title 3  
California Code of Regulations  
AMEND: 3406(b)  
Filed 08/11/2008  
Effective 08/11/2008  
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0807-02  
DEPARTMENT OF FOOD AND AGRICULTURE  
Mediterranean Fruit Fly Interior Quarantine

This emergency regulatory action removes approximately 103 square miles surrounding the Mediterranean fruit fly infestation in the Rolling Hills and Rancho Palo Verdes areas of Los Angeles County and the Port of Los Angeles from the area under quarantine. This emergency will go into effect on August 13, 2008, the date the eradication efforts are recommended to be discontinued.

Title 3  
California Code of Regulations  
AMEND: 3406(b)  
Filed 08/11/2008  
Effective 08/13/2008  
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0702-04  
DEPARTMENT OF FOOD AND AGRICULTURE  
Specifications for Hydrogen Used in Internal Combustion and Fuel Cells

This rulemaking implements Senate Bill 76 (Ch. 91 of 2005) by adopting interim standards for hydrogen in terms of its content and the maximum levels of various impurities and other substances it may contain. The rulemaking acknowledges that these are interim standards, and that procedures to measure these properties have not yet been finalized, and that the Department will adopt final sampling and testing procedures once they are adopted by an ANSI-accredited organization.

Title 4  
California Code of Regulations  
ADOPT: 4180, 4181  
Filed 08/12/2008  
Effective 09/11/2008  
Agency Contact: Kristin Macey (916) 229-3044

File# 2008-0806-01  
DEPARTMENT OF FOOD AND AGRICULTURE  
Light Brown Apple Moth Interior Quarantine

The Department of Food and Agriculture amends Title 3, section 3434(b) to expand the current interior

quarantine areas in the counties of Marin, Monterey and Santa Clara.

Title 3  
California Code of Regulations  
AMEND: 3434(b)  
Filed 08/13/2008  
Effective 08/13/2008  
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0717-01  
DEPARTMENT OF HEALTH CARE SERVICES  
Sign Language Interpreter Services

This regulatory action amends the definition of "sign language interpreter services," requires a Medi-Cal enrolled provider to select another interpreter if the interpreter selected by the beneficiary is determined to be inadequate, expands the scope of health care services for which Medi-Cal will reimburse enrolled providers for using sign language interpreter services, and provides that Medi-Cal will reimburse for sign language interpreter services for Medi-Cal enrolled providers that employ fewer than 15 employees.

Title 22  
California Code of Regulations  
AMEND: 51098.5, 51202.5, 51309.5, 51503.3  
Filed 08/07/2008  
Effective 09/06/2008  
Agency Contact: Lynette Cordell (916) 650-6827

File# 2008-0714-01  
FISH AND GAME COMMISSION  
Nuisance Canada Geese

This amendment to Section 503 of Title 14 will authorize control of Nuisance Canada geese in compliance with the Migratory Bird Treaty Act and 50 C.F.R. 21.49 et seq., encompassing federal orders from the United States Fish and Wildlife Service, subject to permits. The pertinent parts of the depredation order being implemented are the Airport Control Order, the Nest and Egg Control Order and the Public Health Control Order.

Title 14  
California Code of Regulations  
AMEND: 503  
Filed 08/11/2008  
Effective 09/10/2008  
Agency Contact: Sherrie Koell (916) 654-9866

File# 2008-0721-01  
FISH AND GAME COMMISSION  
Halibut Trawl Grounds

This action permits halibut trawling in areas A, C, and D of the California Halibut Trawl Grounds (CHTG) pursuant to the requirements of Fish and Game Code section 8495(c).

Title 14  
California Code of Regulations  
ADOPT: 124  
Filed 08/12/2008  
Effective 08/12/2008  
Agency Contact: Sherrie Koell (916) 654-9866

File# 2008-0721-03  
OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD  
Lead

This is a nonsubstantive action making an editorial correction to an incorrect cross-reference citation.

Title 8  
California Code of Regulations  
AMEND: 1532.1  
Filed 08/08/2008  
Effective 08/08/2008  
Agency Contact: Marley Hart (916) 274-5721

File# 2008-0722-03  
OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT  
Specific Regulatory Levels Posing No Significant Risk  
— Adoption of NSRL for C.I. Direct Blue 218

This rulemaking sets the regulatory level posing no significant risk of C.I. Direct Blue at 50 micrograms per day.

Title 27  
California Code of Regulations  
AMEND: 25705(b)  
Filed 08/08/2008  
Effective 09/07/2008  
Agency Contact: Susan Luong (916) 327-3015

File# 2008-0725-03  
OFFICE OF SPILL PREVENTION AND RESPONSE  
Contingency Plans

This is the timely certification of compliance for amendments to the definitions in sections 815.05 and 825.05 of title 14, CCR, that continue to allow tank vessels and non-tank vessels to enter into an agreement with an oil spill response organization for coverage in a small harbor with readiness assured through advance notification of the ship's intention to enter the harbor, and the amendment of the ship's identifying information that must be included in the contingency plans for tank and non-tank vessels.

Title 14  
California Code of Regulations  
AMEND: 815.05, 818.02, 825.05, 827.02  
Filed 08/06/2008

Agency Contact:  
Joy D. Lavin-Jones (916) 327-0910

File# 2008-0626-02  
OFFICE OF THE STATE FIRE MARSHAL  
State Fire Training Program and Fees

This regulatory action establishes the procedures and fees for a self-supporting training and education program for fire service personnel. It incorporates by reference three newly-created manuals for the implementation of this program.

Title 19  
California Code of Regulations  
ADOPT: 1980.00, 1980.01, 1980.02, 1980.03, 1980.04, 1980.05, 1980.06, 1980.07, 1990.00, 1990.01, 1990.02, 1990.03, 1990.04, 1990.05, 1990.06, 1990.07, 1990.08, 1990.09, 1990.10, 1990.11, 1990.12, 1990.13  
Filed 08/07/2008  
Effective 09/06/2008  
Agency Contact: Diane Arend (916) 324-9592

File# 2008-0703-03  
SECRETARY OF STATE  
Expedited and Special Handling Services; File Dates  
The Secretary of State is eliminating the "wait for" service for business entity documents and implementing a new \$750 fee for "expedited filing."

Title 2  
California Code of Regulations  
ADOPT: 21905.5 AMEND: 21903, 21905  
Filed 08/08/2008  
Effective 09/07/2008  
Agency Contact: Todd Vlaanderen (916) 653-7514

### CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN MARCH 12, 2008 TO AUGUST 13, 2008

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**  
04/24/08 AMEND: Appendix A

**Title 2**  
08/08/08 ADOPT: 21905.5 AMEND: 21903, 21905

07/16/08 ADOPT: 18946.6  
 07/10/08 AMEND: 1859.76, 1859.83, 1859.104.3  
 07/10/08 AMEND: 1859.71  
 07/08/08 AMEND: 2271  
 06/26/08 AMEND: 554.2, 554.3  
 06/17/08 ADOPT: div. 8, ch. 112, sec. 59570  
 06/11/08 AMEND: 18360, 18361  
 06/11/08 ADOPT: 18421.7 AMEND: 18401  
 06/11/08 ADOPT: 18944.2 REPEAL: 18944.2  
 05/21/08 ADOPT: 59580  
 05/14/08 ADOPT: 18413  
 05/13/08 ADOPT: 59620  
 05/06/08 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009  
 04/30/08 AMEND: 1859.2, 1859.61, 1859.81, 1859.82, 1859.83, 1859.202, 1866, Form SAB 50-04 (Rev. 01/08)  
 04/29/08 ADOPT: 1859.190, 1859.191, 1859.192, 1859.193, 1859.193.1, 1859.194, 1859.195, 1859.196, 1859.197, 1859.198, 1859.199 AMEND: 1859.2, 1859.51, 1859.81, Form SAB 50-04 (Revised 01/08), Form SAB 50-05 (Revised 01/08), Form SAB 50-10 (Revised 01/08)  
 04/24/08 ADOPT: 1183.081, 1183.131, 1183.30, 1183.31, 1183.32 AMEND: 1181.1, 1181.2, 1181.3, 1183, 1183.01, 1183.04, 1183.08, 1183.11, 1183.13, 1183.14, 1183.3, 1188.3  
 04/10/08 AMEND: 1866, 1866.4.3, 1866.13, Form SAB 40-22 (Rev. 10/07)  
 04/09/08 AMEND: 18997  
 03/28/08 ADOPT: 59630  
 03/24/08 AMEND: 18735  
 03/19/08 AMEND: 55300  
 03/19/08 AMEND: 549.90  
 03/19/08 AMEND: 18200

**Title 3**

08/13/08 AMEND: 3434(b)  
 08/12/08 AMEND: 3406(b)  
 08/11/08 AMEND: 3406(b)  
 08/01/08 AMEND: 3589(a)  
 08/01/08 ADOPT: 3591.22  
 07/28/08 AMEND: 3434(b)  
 07/25/08 AMEND: 902.9  
 07/24/08 ADOPT: 3591.21  
 07/22/08 AMEND: 3417(b)  
 07/16/08 AMEND: 3700  
 07/16/08 AMEND: 3406  
 07/14/08 AMEND: 3963  
 07/11/08 AMEND: 3434(b)  
 07/09/08 AMEND: 3434(b)

06/30/08 AMEND: 3589(a)  
 06/24/08 AMEND: 3963  
 06/24/08 AMEND: 3060.3  
 06/23/08 AMEND: 3591.5(a)  
 06/17/08 AMEND: 2751  
 06/16/08 AMEND: 3434(b)  
 06/11/08 AMEND: 3434(b)  
 06/09/08 AMEND: 3700  
 06/04/08 AMEND: 3434(b)  
 05/23/08 AMEND: 3434(b)  
 05/23/08 AMEND: 1438.7, 1438.17  
 05/07/08 AMEND: 3434(b)  
 05/05/08 AMEND: 3406(b)  
 05/02/08 AMEND: 3417(b)  
 05/02/08 AMEND: 3434  
 04/30/08 AMEND: 3591.20  
 04/23/08 AMEND: 6550  
 04/21/08 AMEND: 3700  
 04/18/08 AMEND: 3434(b)  
 04/16/08 AMEND: 3434(b) & (c)  
 04/15/08 AMEND: 3433(b)  
 04/08/08 AMEND: 3434(b)  
 04/02/08 AMEND: 3433(b)  
 04/02/08 AMEND: 3433(b)  
 04/01/08 ADOPT: 821, 821.1, 821.2, 821.3, 821.4, 821.5 REPEAL: 784, 784.1, 784.2, 800, 800.1, 801, 802  
 03/26/08 AMEND: 3434(b)  
 03/21/08 AMEND: 3434(b)  
 03/19/08 AMEND: 6620  
 03/17/08 AMEND: 3434(b)  
 03/17/08 AMEND: 3406(b)  
 03/17/08 AMEND: 3700(c)  
 03/13/08 AMEND: 6860  
 03/12/08 AMEND: 3434(b)  
 03/12/08 AMEND: 3406(b)

**Title 4**

08/12/08 ADOPT: 4180, 4181  
 08/08/08 AMEND: 12002, 12100, 12101, 12120, 12122, 12128, 12130, 12140, 12200, 12200.3, 12200.7, 12200.9, 12200.10A, 12200.10B, 12200.10C, 12200.11, 12200.13, 12200.14, 12200.16, 12200.17, 12200.18, 12200.20, 12200.21, 12201, 12202, 12203, 12203A, 12203.1, 12203.2, 12203.3, 12203.5, 12204, 12205, 12205.1, 12218, 12218.1, 12218.5, 12218.7, 12218.11, 12220, 12220.3, 12220.13, 12220.14, 12220.16, 12220.18, 12220.20, 12220.20A, 12220.21, 12220.23, 12221, 12222, 12223, 12224, 12225, 12225.1, 12233, 12234, 12235, 12236, 12300, 12301, 12301.1, 12302, 12303, 12304,



12305, 12306, 12308, 12309, 12310, 12335, 12341, 12342, 12343, 12344, 12345, 12347, 12358, 12359, 12360, 12370, 12400, 12401, 12402, 12403, 12404, 12405, 12460, 12463, 12464, 12466, 12550, 12552, 12554, 12556, 12558, 12560, 12562, 12564, 12566, 12568, 12590		<b>Title 7</b>	
08/04/08	AMEND: 1843.2	06/10/08	ADOPT: 236.1
07/14/08	AMEND: 8070, 8072, 8073	<b>Title 8</b>	
07/10/08	AMEND: 1481, 1783, 1784	08/08/08	AMEND: 1532.1
06/24/08	ADOPT: 12335, 12340, 12357 AMEND: 12342, 12343, 12344, 12345, 12358, 12359	08/04/08	AMEND: 3649
05/23/08	ADOPT: 1843.3 AMEND: 1843.2	08/04/08	AMEND: Appendix C following section 560, Appendices A, B, and C following section 1938, and section 5001
05/01/08	AMEND: 1844	07/30/08	AMEND: 1524
04/08/08	AMEND: 1467	07/18/08	AMEND: 290.0, 290.1, 291.0, 291.1, 291.2, 291.5, 292.0, 294.0, 295.0, 296.0, 296.1, 296.2, 296.3, 296.4
03/24/08	AMEND: 10177, 10178, 10181, 10182, 10187, 10188, 10189	07/18/08	AMEND: 2500.7
<b>Title 5</b>		07/17/08	AMEND: 4885, 4924, 5004
08/11/08	AMEND: 41000	07/17/08	AMEND: 1604.24, 1604.26
08/04/08	ADOPT: 15575, 15576, 15577, 15578	07/14/08	AMEND: Appendix B following 1541.1
07/16/08	AMEND: 18272	06/30/08	ADOPT: 4300.1 AMEND: 4297, 4300
06/24/08	AMEND: 80021	06/06/08	AMEND: 1710(k)(2)
06/19/08	AMEND: 4600(l)	05/19/08	AMEND: 1529, 5208, 8358
06/13/08	ADOPT: 55185, 57017 AMEND: 55180, 57001.7, 58003.4, 58770, 58771, 58774	05/19/08	AMEND: 1710
06/10/08	AMEND: 30910, 30911, 30912, 30913, 30914, 30916	05/19/08	AMEND: 797, 1604.10, 1601.21, 1662
06/10/08	AMEND: 30920, 30921, 30922, 30923, 30924, 30925, 30927	05/05/08	ADOPT: 2340.2, 2340.5, 2340.8, 2340.10, 2340.12, 2340.14; Article 6, Sections 2360.1 through 2360.5; Sections 2375.7, 2375.25, 2380.1, 2390.10, 2390.20, Article 12, Sections 2400.1, 2400.2; Sections 2418.2, 2418.3, 2418.4, 2418.5, 2418.6, 2420.4, 2420.5, 2420.6, 2420.7, 2473.1, 2473.2, 2480.5, 2480.9, 2484.5, 2484.6; Article 48.1, Sections 2485.1, 2485.2; Sections 2505.2, 2510.8, 2522.20, 2530.120, 2530.121; Article 58.1, Section 2535.1; Sections 2540.11, 2540.11 Figure S-1, 2560.3; Article 74.1, Sections 2562.1 through 2562.7; Article 77.1, Sections 2566.1 through 2566.3; Article 77.2, Sections 2567.1 through 2567.3; Sections 2569.5, 2571.9, 2571.30; Article 83, Sections 2583.1 through 2583.8; Article 84, Sections 2584.1 through 2584.8; Article 85, Sections 2585.1 through 2585.3; Article 86, Sections 2586.1 through 2586.4; Article 87, Sections 2587.1 through 2587.5; Article 88, Sections 2588.1 through 2588.3; Article 89, Sections 2589.1 and 2589.2. AMEND: 2300, 2305.2, 2305.4, 2340.9, 2340.11, 2340.13, 2340.16, Table 2340.16, 2340.17, 2340.18, 2340.21, 2340.22; Article 5, Section 2350.2; Sections 2375.1, 2375.18, Table 2375.18, Sections 2375.19, 2390.1, 2390.24, 2390.41, 2390.81, 2395.3, 2395.5, 2395.6,
06/09/08	ADOPT: 19828.3, 19837.2 AMEND: 19816, 19816.1, 19828.2, 19837.1, 19846		
05/28/08	ADOPT: 18085.5, 18086.1 AMEND: 18086, 18087, 18088, 18091, 18101, 18102, 18104		
05/21/08	ADOPT: 6105 AMEND: 6100, 6104		
05/13/08	AMEND: 15440, 15441, 15442, 15443, 15444, 15445, 15446, 15447, 15448, 15449, 15450, 15451, 15452, 15453, 15454, 15455, 15456, 15457, 15458, 15459, 15460, 15461, 15462, 15463, 15464, 15467, 15468, 15469, 15471, 15471.1, 15471.2, 15472, 15473, 15474, 15475, 15476, 15477, 15478, 15479, 15479.5, 15480, 15481, 15483, 15484, 15485, 15486, 15487, 15488, 15489, 15490, 15493		
05/05/08	ADOPT: 11315.5 and 11315.6 AMEND: 11315		
05/01/08	AMEND: 80440, 80443		
04/21/08	ADOPT: 18134		
04/21/08	ADOPT: 18134		

	2395.23, 2395.25, 2395.32, 2395.42, 2395.44, 2395.45, 2395.57, 2395.58, 2405.1, 2405.2; Article 16, Sections 2420.3; Article 45; Sections 2480.6, 2480.7, 2484.24, 2500.7, 2500.8, 2500.9, 2500.10, 2500.11, 2500.23, 2505.10, 2505.11, 2510.4, 2510.5, 2510.6, 2510.7, 2510.56, 2510.58, 2522.2, 2530.4, 2530.102, 2530.103, 2530.104, 2530.107, 2530.112, 2533.1, 2534.6, 2534.8, 2540.1, 2540.2, 2540.3, 2540.4, 2560.2, 2561.1, 2561.3, 2561.31, 2561.32, 2563.23, 2563.33; Article 77, Section 2565.3; Sections 2568.8, 2568.15, 2569.1, 2569.6, 2569.7, 2569.20, 2569.51; Article 80, Sections 2571.1 and 2571.16. REPEAL: 2340.23, 2350.11, 2390.83, 2395.7, 2395.33, 2395.43, 2395.50, 2480.8, 2522.8 and 2561.50.	05/27/08	AMEND: 2249.2–2249.9, 2249.12, 2249.15
		05/16/08	ADOPT: 2642.8, 2644.28 AMEND: 2642.6, 2642.7, 2644.2, 2644.3, 2644.6, 2644.7, 2644.8, 2644.12, 2644.16, 2644.17, 2644.19, 2644.20, 2644.21, 2644.23, 2644.25, 2644.27
		04/30/08	AMEND: 2697.6, 2697.61
		04/29/08	ADOPT: 10.19900, 10.19901
		04/28/08	AMEND: 310.111
		03/27/08	AMEND: 2699.6500, 2699.6805, 2699.6803
		03/20/08	AMEND: 1950.314.8
		03/18/08	AMEND: 2498.6
		03/12/08	ADOPT: 2699.402 AMEND: 2699.100, 2699.205, 2699.6600, 2699.6607, 2699.6608, 2699.6613, 2699.6625, 2699.6629, 2699.6813
		<b>Title 11</b>	
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		05/28/08	AMEND: 2000, 2001, 2010, 2020, 2030, 2037, 2038, 2050, 2051, 2052, 2053, 2060, 2070, 2071, 2072, 2140
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